

THE T R Y A L S

OF

R
Joseph Dawson,
Edward Forseith,
William May,

vs

515. *L. 6.*
22
William Bishop,
James Lewis, and
John Sparkes.

For several

Piracies and Robberies

By them committed,

IN THE

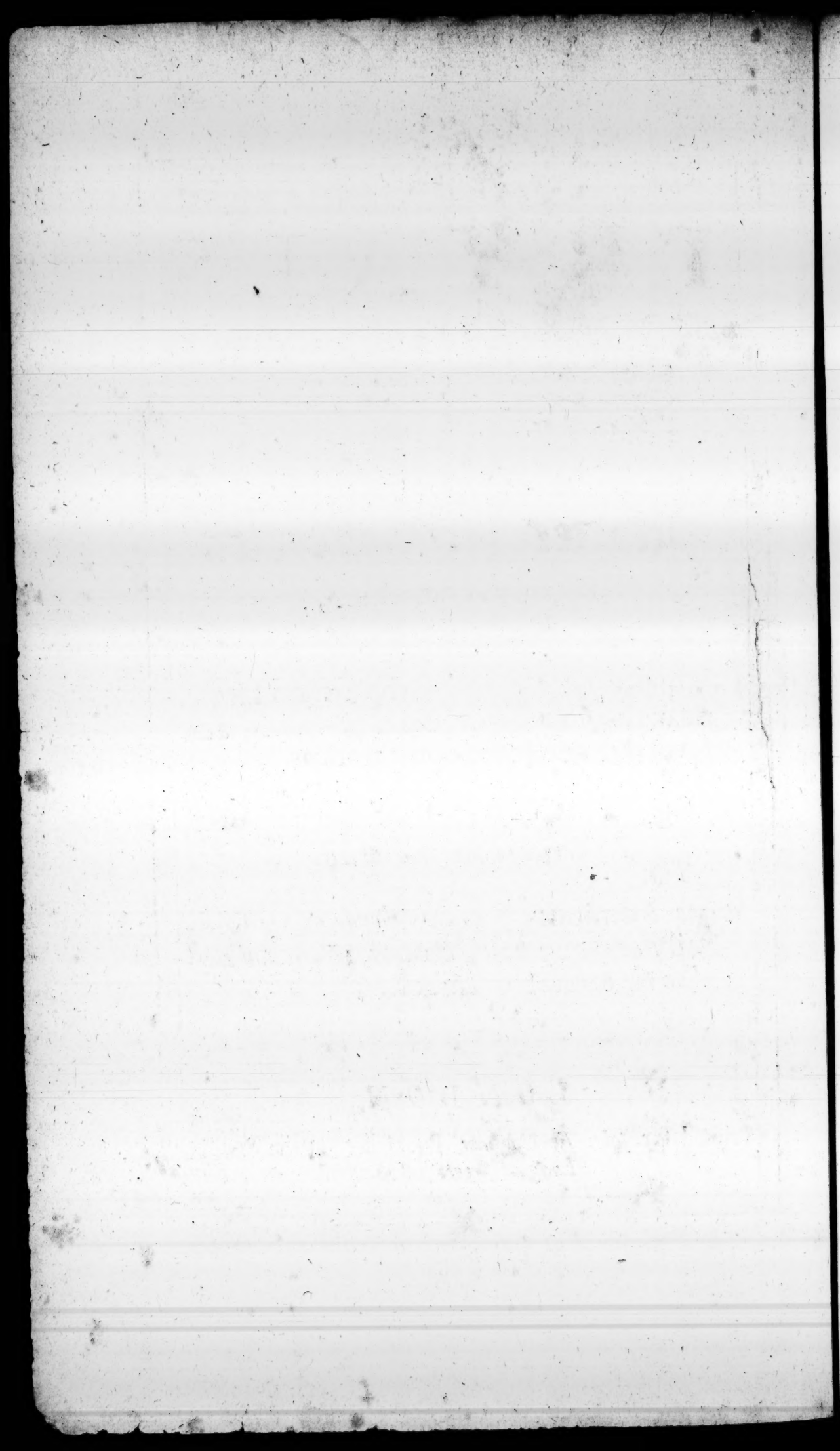
Company of *EVERY* the Grand Pirate,
near the Coasts of the *East-Indies*; and
several other Places on the Seas.

Giving an *ACCOUNT* of their *Villainous*
Robberies and Barbarities.

*At the Admiralty Sessions, begun at the Old-
Baily on the 29th of October, 1696. and end-
ed on the 6th. of November.*

L O N D O N,

Printed for John Everingham, Bookseller, at the Star in
Ludgate-street, 1696.



Admir. Angl. ff.

THE Sessions of Oyer and Terminer, and Goal-Delivery, held for our Sovereign Lord the King, for the Jurisdiction of the Admiralty of England, at Justice-Hall in the Old-Baily, in the Suburbs of the City of London, on Monday the 19th Day of October, in the Eighth Year of the Reign of our said Sovereign Lord King William the Third, over England, &c. before the Right Honourable Edward Ruffel, Esq; Henry Priestman, Esq; Sir Robert Rich, Knight and Baronet; Sir George Rooke, Kt. Sir John Houblon, Kt. and James Kendall, Esq; Commissioners for Executing and Exercising the Office and Place of Lord High Admiral of England, respectively assigned and deputed; the Right Worshipful Sir Charles Hedges, Kt. Dr. of Law, Lieutenant in the High Court of Admiralty of England, Commissary-General of Our Sovereign Lord the King, and President and Judge of the said Court; the Right Honourable Sir John Holt, Kt. Lord Chief Justice of the King's-Bench; Sir George Treby, Kt. Lord Chief Justice of the Common-Pleas; Sir Edward Ward, Kt. Lord Chief Baron of the Exchequer; Sir Tho. Rookeby, Kt. and one of the Justices of the Kings-Bench; Sir Samuel Eyre, Kt. another of the Justices of the Kings-Bench; Sir John Turton, Kt. another of the Justices of the Kings-Bench; Sir John Powell, Kt. one of the Justices of the Common-Pleas; Sir Littleton Powis, Kt. one of the Barons of the Exchequer; William Bridgeman and Josias Burchet, Esqs; Secretaries of the Admiralty of England; Thomas Lane. William King, and John Cooke, respectively Drs. of Laws; and others His Majesty's Justices named in the said Commission.

HIS Majesty's Commissioners being then and there met, the Commission was read, and Proclamation made for Attendance: After which, the Gentlemen of the Grand Jury were called and Sworn, and received their Charge from Sir Ch. Hedges, Kt. Judge of the High Court of Admiralty, who set forth unto them the nature of the Commission, the extent of the Jurisdiction of the Court, and the subject Matter of their Enquiries.

Then the Witnesses for the King being Sworn, the Grand Jury withdrew, and after a little time returned, finding *Billa vera* against Henry Every not yet taken, Joseph Dawson, Edw. Foreseith, William May, William Bishop, James Lewes, and John Sparkes, Prisoners, for Feloniously and Piratically taking, and carrying away, from persons unknown, a certain Ship called the *Gunsway*, with her Tackle, Apparel and Furniture, to the value of 1000 £. and of Goods to the value of 110 £. together with 100000 Pieces of Eight, and 100000 Chequins, upon the High Seas, ten Leagues from the Cape St. Johns near Surat in the East-Indies. Then Dawson, Forseith, May, Bishop, Lewes, and Sparkes, were brought to the Bar, and their Indictment was read.

Joseph Dawson confessed that he was Guilty, but the rest pleaded Not Guilty, and put themselves upon their Trials; and thereupon the Petty-Jury was called, and the persons, whose Names follow, were Sworn.

<i>William Walker,</i>	} {	<i>Benjamin Dry,</i>
<i>John Child,</i>		<i>John Sherbrooke,</i>
<i>Edward Leeds,</i>		<i>Samuel Jackson,</i>
<i>Thomas Clarke,</i>		<i>Thomas Emms,</i>
<i>Nathan Green,</i>		<i>Henry Hunter,</i>
<i>Henry Sherbrooke,</i>		<i>John Hall.</i>

Then the King's Learned Council opened the Indictment, &c. and *Dr. Newton* made a Speech; which is as follows.

My Lord, and Gentlemen of the Jury,

THE Prisoners are Indicted for Piracy, in Robbing and Plundering the Ship *Gunf-way*, belonging to the Great Mogul, and his Subjects, in the Indian Seas, to a very great value.

And the End was suitable to their Beginning, they first practised these Crimes upon their own Country-men, the English, and then continued them on to Strangers and Foreigners: For the Ship in which this Piracy was committed, was an English Vessel, called *The Charles the Second*, belonging to several Merchants of this City, designed for other Ends, and a far different Voyage, which by these Criminals, with the Assistance of one Every, their Captain, in all these Villanies, was seized near the Groyn in Spain, in May 1694. from which place, having first by Force, set Captain Gibson the Commander, on Shoar, they carried off the Ship, and with it committed many and great Pyracies, for several Years (as will appear in the Course of the Evidence) in most of the parts of the known World, without distinction upon all Nations, and Persons of all Religions.

Their last Piracy, was this in the Indies, the greatest in it self, and like to be the most pernicious in its consequences, especially as to Trade, considering the Power of the great Mogull, and the natural Inclination of the Indians to Revenge: But they are now brought hither on their Tryal, and if the Matters, they are Charged with, shall be proved, to receive that Judgment from you, their Crime deserves; and that is Piracy, which by so much exceeds Theft or Robbery at Land; as the Interest and Concerns of Kingdoms and Nations, are above those of private Families, or particular Persons: For suffer Pirates, and the Commerce of the World must cease, which this Nation has deservedly so great a share in, and reaps such mighty advantage by: And if they shall go away unpunished, when it is known whose Subjects they are, the consequence may be, to involve the Nations concerned, in War and Blood, to the Destruction of the Innocent English in those Countries, the total Loss of the Indian Trade, and thereby, the Impoverishment of this Kingdom.

The Witnesses for the King, viz. *John Dan*, and *Philip Middleton*, were then called and Sworn, and in the Opinion of the Court gave a full Evidence against the Prisoners, which was very clearly summ'd up by the Lord Chief Justice *Holt*; the tenour whereof is particularly set forth in the following Trials: but the Jury, contrary to the expectation of the Court, brought in all the Prisoners Not Guilty, whereupon the Sessions was Adjourned to Saturday the 31th of October following, and the Prisoners were committed upon a new Warrant for several other Piracies.

*Die Sabbati, tricesimo primo Octobris, Annoq; Regni Regis
Willielmi Tertii Octavo, Annoq; Domini, 1696.*

THE Court being sat (at which were present Sir Charles Hedges Judge of the High Court of Admiralty, the Lord Chief Justice Holt, the Lord Chief Justice Treby, the Lord Chief Baron Ward, Mr. Justice Rookby, Mr. Justice Turton, Mr. Justice Eyres, and Mr. Baron Powis, Dr. Lane, Dr. King, and Dr. Cook) The Court proceeded in this manner.

Cl. of Arr. Cryer, Make Proclamation.

Cryer. O yes, O yes, O yes. *All manner of Persons that have any thing more to do at this Sessions, draw near and give your Attendance: And you Sheriffs of the City of London, return the several Precepts directed to you, and returnable here this day, upon pain and peril that shall follow thereon.*

Then the Grand Jury were called over, and the Appearances mark'd.

Cl. of Arr. Make Proclamation.

Cryer. O yes, &c. The Lords the King's Justices charge and command all Persons to keep silence, while the Charge is giving.

The Judge of the Admiralties Charge to the Grand Jury upon this occasion.

Sir Charles Hedges. Gentlemen of the Grand Jury.

THE Opinon which this Court had of the Good Intentions, Abilities, and Integrity of the last Grand Jury, was so fully answered at our late Meeting in this Place; that I am confident all good English-men, who were Witnesses of their Proceedings, will concur in giving them Publick Thanks, for the good Services which they then performed: I wish that all others, who were concerned in the Dispatch of that Days Business, had the like pretence to have the same; the Publick Justice of the Nation, would not then have lain under any manner of Reproach, neither would you have had this farther trouble. But seeing that it hath so happen'd, it is become absolutely necessary that a farther, and a strict Enquiry should be made after those Crimes which threaten, and tend to the Destruction of our Navigation and Trade, and therefore I am assured of your Patience, whilst I shew you briefly,

1. What the Crimes are, which you are to enquire after.

B

2. How

2. How far the Jurisdiction, and your Power in making these Enquiries doth extend.

3. What is the Duty incumbent on you in this behalf.

1. As to the Crimes, I shall not repeat what was mentioned touching all the particulars thereof, at the opening of this Sessions ; but confine my Discourse to those, which I find by the Calendar will, at this time, necessarily fall under your Examination, and those are Piracies.

Now Piracy is only a Sea term for Robbery, Piracy being a Robbery committed within the Jurisdiction of the Admiralty ; if any man be assaulted within that Jurisdiction, and his Ship or Goods violently taken away without a Legal Authority, this is Robbery and Piracy. If the Mariners of any Ship shall violently dispossess the Master, and afterwards carry away the Ship it self, or any of the Goods, or Tackle, Apparel, or Furniture, with a felonious Intention, in any place where the Lord Admiral hath, or pretends to have Jurisdiction ; this is also Robbery and Piracy ; the intention will, in these cases, appear, by considering the end for which the Fact was committed, and the end will be known, if the Evidence shall shew you what hath been done.

3. Now the Jurisdiction of the Admiralty is declared, and described in the Statute, and Commission by vertue of which we here meet, and is extended throughout all Seas, and the Ports, Havens, Creeks, and Rivers beneath the first Bridges next the Sea, even unto the higher Water-mark.

The King of *England* hath not only an Empire and Sovereignty over the British Seas ; but also an undoubted Jurisdiction, and Power, in concurrency with other Princes, and States, for the punishment of all Piracies and Robberies at Sea, in the most remote parts of the World, so that if any person whatsoever, Native or Foreigner, Christian or Infidel, Turk or Pagan, with whose Country we have no War, with whom we hold Trade and Correspondence, and are in Amity, shall be robbed or spoiled, in the narrow Seas, the Mediterranean, Atlantick, Southern, or any other Seas, or the branches thereof, either on this, or the other side of the Line, it is Piracy within the limits of your Enquiry, and the cognizance of this Court.

3. Concerning the Duty incumbent upon you in making your Enquiries, and Presentments, you may consider that there is a great Trust and Authority committed to you, and therefore it will be expected

pected that a suitable care should be had, and your Power executed according to a well regulated discretion : As you are, on the one hand, to take care that the Court be not troubled, nor any man put in hazard of his Life, through any frivolous, or malicious Prosecution ; so, on the other side, and more especially in the cases of great, and publick Offences, you are to use your utmost endeavours, that Justice, the support of Government, be not obstructed by any partial Proceedings.

You are not obliged in all cases to require a clear and full Evidence, but only to examine till you find, and are satisfied in your Consciences, that there is sufficient and just cause to put the Party accused upon his Tryal. You cannot convict, but may in effect acquit the greatest Criminals, and therefore if you do but find proofs enough to create a Presumption against the Party accused, when the case seems odious, and is of great consequence, and importance, your safest way is to put it in a proper Method for the Petty Jury, who are to receive full satisfaction from the Evidence that shall be given in the presence of the Party ; and according to that Evidence, have power to determine whether guilty, or not guilty, condemn, as well as acquit.

And upon this occasion, seeing many who are upon that Service are present, it seems fit that they should also know that they have no power to do more or less than what is agreeable to the Evidence : They are not to interpose in points of Law, or to be swayed by any consideration whatsoever, but what shall arise from the proofs judicially made ; they are indeed Judges of the Fact, but they are not Arbitrary ; they are as much restrained by the dictates of Conscience formed and convinced by reasonable proofs, as the Judges on the Bench are by the Rules of Law.

No man can believe just as he lists, and therefore a determination, or judgment at will and pleasure will never be thought to deserve the name of a Verdict : for whatever may be pretended, the World will not be persuaded that a Jury hath pursued the dictates of Conscience, unless some reasonable grounds for its proceedings shall appear, and therefore, whenever it shall happen that notorious Malefactors escape unpunished, notwithstanding, that in the Opinion of most good men, there was a full and sufficient Evidence for their Conviction, it is to be wished, and indeed it seems to me to be necessary, in cases that relate to the Laws of Nations, that the reasons which induced such a determination should be
given

given for the publick satisfaction, otherwise, since Forreigners look upon the Decrees of our Courts of Justice as the sense and judgment of the whole Nation, our Enemies will be glad to find an occasion to say, that such Miscreants as are out of the protection of all Laws, and Civil Governments, are abetted by those who contend for the Sovereignty of the Seas. The barbarous Nations will reproach us as being a Harbour, Receptacle, and a Nest of Pirates, and our Friends will wonder to hear that the Enemies of Merchants and of Mankind, should find a Sanctuary in this ancient Place of Trade. Nay, we ourselves cannot but confess, that all Kingdoms and Countries who have suffered by English Pirates, may, for want of Redress in the ordinary course, have the pretence of Justice, and the colour of the Laws of Nations to justify their making reprizals upon our Merchants wheresoever they shall meet them upon the Seas. If a Jury happens in these cases to be too severe, there is room for Mercy, and I am confident, that upon a just representation, the Innocent never failed of obtaining it; but for a fault, neglect, or error on the other hand, there is no relief for injured Forreigners, but by their carrying out, as we may be sure they will, for themselves, such a satisfaction, upon our Merchants as they shall think fit, whenever they shall have an opportunity; and so our whole Nation must unavoidably suffer both in reputation and interest, and all as it were through our own default.

I hope what hath been said upon this unexpected occasion, will not be looked upon as intended to influence any Jury; I am sure it is far from being so designed; Religion, Conscience, Honour, common Honesty, Humanity, and all Laws forbid such Methods: There is no doubt but the Judge as well as the Jury-man then best discharges his duty, when he proceeds without favour or affection, hatred or ill-will, or any partial respect whatsoever.

Every man ought to be extremely tender of such a Person as he has reason to believe is innocent; but it should be considered likewise on the other side, that he who brings a notorious Pirate, or common Malefactor to Justice, contributes to the safety, and preservation of the Lives of many, both bad and good, of the good by means of the assurance of protection, and of the bad too by the terror of Justice. It was upon this consideration that the *Roman* Emperours in their Edicts made this piece of service for the publick good, as meritorious as any act of Piety, or Religious Worship.

Our own Laws demonstrate how much our Legislators, and particularly how highly that great Prince *K. H.* the 5th. and his Parliament thought this Nation concerned in providing for the security of Traders, and scouring the Seas of Rovers and Free-booters. Certainly there never was any Age wherein our Ancestors were not extraordinary zealous in that affair, looking upon it, as it is, and ever will be, the chief support of the Navigation, Trade, Wealth, Strength, Reputation and Glory of this Nation.

Gentlemen, our concern, as our Trade is, ought in reason to be rather greater than that of our Fore-fathers; we want no manner of inducements, no motives to stir us up, whether we consider our Interest or Honour, we have not only the sacred Word, but also the glorious Acts of the best of Kings, which sufficiently manifest to us, that the good and safety of this Nation, is the greatest care of his Life; let every man therefore who pretends to any thing of a true English spirit, readily, chearfully follow so good, so great, so excellent an Example, by assisting and contributing to the utmost of his power and capacity at all times towards the carrying on his noble and generous Designs for the common good, and particularly at this time, by doing all that he can, to the end that by the Administration of equal Justice, the Discipline of the Seas, on which the good and safety of this Nation entirely depends, may be supported and maintained.

Then

Then the Witnesses being sworn in Court, the Grand Jury withdrew to hear their Evidence. And in the mean time *T. Vaughan* and *J. Murphey*, *Tim. Brenain*, were Arraigned, whom the Keeper of *Newgate*, by Order, brought to the Bar.

Cl. of Arr. T. Vaughan, Hold up thy Hand (which he did). *Thou standest Indicted, &c.*

Art thou Guilty of this High Treason whereof thou standest Indicted, or not Guilty?

T. Vaughan. Not Guilty.

Cl. of Arr. Culpit, how wilt thou be tried?

T. Vaughan. By God and this Countrey.

Cl. of Arr. God send thee a good deliverance.

Cl. of Arr. J. Murphey, Hold up thy hand (which he did), *Thou standest Indicted, &c.*

How sayest thou, *Jo. Murphey*, Art thou Guilty of the High Treason whereof thou standest Indicted, or not Guilty?

J. Murphey. Not Guilty.

Cl. of Arr. How wilt thou be tried?

J. Murphey. By God and the King.

Officer. You must say, by God and my Countrey.

Cl. of Arr. God send thee a good deliverance.

Cl. of Arr. Bring *Tim. Brenain* to the Bar, (who was brought accordingly.)

Cl. of Arr. Tim. Brenain, have you any Copy of your Indictment?

Tim. Brenain. Yes.

Cl. of Arr. When had you it?

Tim. Brenain. This day fennight.

Cl. of Arr. Tim. Brenain, hold up thy hand (which he did); *Thou standest Indicted, &c.*

How sayest thou? Art thou Guilty of the High Treason whereof thou standest Indicted, or not Guilty?

Tim. Brenain. Not Guilty.

Cl. of Arr. How wilt thou be tried?

T. Brenain. By God and my Country.

Cl. of Arr. God send thee a good deliverance.

Mr. Mompeffon. Will your Lordships please that he may be tried now?

L.C.J. Treby. Does he desire to be tried now?

Mr. Mompeffon. Yes, my Lord, there is no Evidence against him, and he is sick.

Mr. Sol. Gen. We are not now prepared for the Tryal.

L.C.J. Treby. If the King's Council and the Prisoner be agreed, with all my heart.

L.C.J. Holt. He may be tryed with therest.

Then *T. Vaughan*, and *J. Murphey*, and *T. Brenain*, had Notice to prepare for their Tryals on *Friday* next, at two of the clock in the afternoon.

Then the Grand Jury came into Court.

Cl. of Arr. Gentlemen of the Grand Jury, are you agreed in your Bills?

Grand Jury. Yes.

Cl. of Arr. *Billa vera* against *Joseph Dawson*, *Ed. Forefeth*, *W. May*, *W. Bishop*, *James Lewis*, and *J. Sparks*, for Piracy and Robbery.

Cl. of Arr. Keeper of *Newgate*, Set *Joseph Dawson*, *Ed. Forefeth*, *Will. May*, *Will. Bishop*, *Will. Lewis*, and *Jo. Sparks*, to the Bar (which was done accordingly).

Cl. of Arr. Joseph Dawson, hold up thy hand (which he did.)

Ed. Foreseth, hold up thy hand (which he did.)

W. May, hold up thy hand (which he did.)

W. Bishop, hold up thy hand (which he did.)

James Lewis, hold up thy hand (which he did.)

Jo. Sparks, hold up thy hand (which he did.)

Then the Indictment was Read, and set forth,

Tbat Henry Every, alias Bridgman, Joseph Dawson, Edward Foreseth, William May, William Bishop, James Lewis and John Sparks, late of London, Mariners, on the 30th of May, in the 6th Year of the Reign of our Sovereign Lord King William, and the late Queen, did, against the Peace of God, and our said Sovereign Lord the King that now is, and the late Queen, by Force of Arms, upon the High and Open Seas, in a certain place. about Three Leagues from the Groyn, and within the Jurisdiction of the Admiralty of England, Piratically and Felloniously set upon one Charles Gibson, a subject of our said Sovereign Lord the King, that now is, and of the late Queen, being then and there Commander of a certain Merchant-ship, called, *The Charles the Second*, carrying Forty Peices of Ordnance, belonging to certain subjects of the said King and the late Queen (to the Jurors as yet unknown). And then and there put the said Charles Gibson in bodily Fear of his Life. And then and there, within the Jurisdiction aforesaid, Feloniously and Pyratically did steal, take and carry away from the said Charles Gibson, the said Ship, called, *The Charles the Second*, her Tackle, Apparel and Furniture, of the Value of One thousand Pounds, Forty Peices of Ordnance, of the Value of Five Hundred Pounds; One Hundred Fusees, of the Value of One Hundred Pounds; Fifteen Tun of Bread, of the Value of One Hundred and Fifty Pounds; and two Hundred pair of Woollen Stockings, of the Value of Ten Pounds, in the possession of the said Charles Gibson then being; the Ship, Goods, and Chattels, of the subjects of our said Sovereign Lord the King, and the Late Queen, (to the Jurors unknown) against the Peace of our said Sovereign Lord the King, and the Late Queen, their Crown, and Dignities, &c.

How say'st thou, *Joseph Dawson*, art thou guilty of this Pyracry and Robbery, or not guilty?

Jos. Dawson. I am ignorant of the proceedings.

Officer. He pleads Ignorance.

Cl. of Arr. You must plead Guilty, or not Guilty.

Jos. Dawson. Guilty.

Cl. of Arr. How say'st thou, *Ed. Forefeth*, art thou Guilty, or not Guilty?

Ed. Forefeth. Not guilty.

Cl. of Arr. How wilt thou be Try'd?

E. Forefeth. By God and my Countrey.

Cl. of Arr. How say'st thou, *Will May*, art thou guilty, or not guilty?

W. May. Not guilty.

Cl. of Arr. How say'st thou, *W. Bishop*, art thou guilty, or not guilty?

W. Bishop. I desire to hear the whole Indictment read again.

L. C. J. Holt. You have heard it, just now, and may hear it again if you desire it.

W. Bishop. The former Indictment.

L. C. J. Holt. No, there is no occasion for that, This is an Indictment for a Fact distinct from that.

Cl. of Arr. This is a New Indictment, not the old one. Art thou guilty of this Pyracry and Robbery, or not guilty?

W. Bishop. Not guilty.

Cl. of Arr. How say'st thou, *James Lewis*, art thou guilty, or not guilty?

Ja. Lewis. Not guilty.

Cl. of Arr. How say'st thou, *J. Sparks*, art thou guilty, or not guilty?

J. Sparks. Not guilty.

Cl. of Arr. How wilt thou be Tryed? (as of the rest)

J. Sparks. By God and my Countrey.

Cl. of Arr. God send thee a good deliverance.

Cryer. O Yes, &c. You good Men of the City of *London*, Summoned to appear here this day, to try between our Sovereign Lord the King, and Prisoners at the Barr, Answer to your Names as you are called, and save your Issues.

Cl. of Arr. *Jo. Degrave*, *Benjamin Hatly*, *Jo. Ayres*, &c.

L. C. J. Holt. Have you any of the former Jury in this pannel?

Cl. of Arr. Yes, my Lord.

Councillor Coniers. We shall except against them for the King.

L. C. J. Holt. If you have return'd any of the former Jury, you have not done well; for that Verdict was a dishonour to the Justice of the Nation.

Cl. of Arr. You, the Prisoners at the Barr, These Men you hear called, are to pass between our Sovereign Lord the King, and you; If therefore you will challenge any of them, you are to challenge them as they come to the Book to be Sworn, and before they are Sworn.

Then they were called over, and some being Challenged for the King, and some by the Prisoners, the Persons Sworn in this Jury were these.

<i>J. Degrave.</i>	<i>Alex. Pollinton.</i>
<i>J. Ayres.</i>	<i>J. Glover.</i>
<i>G. Broom.</i>	<i>Nath. Carpenter.</i>
<i>T. Hicks.</i>	<i>Jo. Bickley.</i>
<i>R. Meakins.</i>	<i>Nath. Troughton.</i>
<i>J. Shelfwell.</i>	<i>Hum. Sonsh.</i>

Cl. of Arr. Make Proclamation.

Crye. O Yes, If any one can inform my Lords the Kings Justices, the Kings Serjeant, the Kings Attorney General, or his Majesties Advocate in his High Court of Admiralty, before this Inquest be taken, of the Piracy and Robbery, whereof the Prisoners at the Barr stand Indicted, let them come forth, and they shall be heard; for the Prisoners stand at the Barr upon their deliverance; and all others may depart.

Then the Grand Jury came into Court again, having found two other Bills against the Prisoners at the Barr, one for Pyratically taking away a *Moorish* Ship, and another for committing Piracy on two Ships belonging to *Denmark*.

And then the Grand Jury was adjourned to *Friday* next, at two a Clock in the Afternoon.

Cl. of Arr. Ed. Foreseth, hold up thy hand, (and so of the rest): You that are Sworn look upon the Prisoners, and hearken to their Cause. They stand Indicted, &c.

Mr. Whitaker. May it please your Lordships, and you Gentlemen of the Jury, The Prisoners at the Barr stand Indicted for Felony and Piracy, for that they, about the 30th of *May*, in the 6th Year of the Reign of his present Majesty King *William*, did make an Assault on Captain *Gibson*; Commander of the Ship *Charles* the Second, and put him in fear of his Life, and Pyratically stole away the Ship, and all the Furniture. And this is laid to be against their Duty and Allegiance, and against the Peace of our Sovereign Lord the King, his Crown and Dignity. To which Indictment they have pleaded, not guilty. We shall go on to call our Witnesses, and prove the charge against the Prisoners at the Barr, and doubt not but you will do your Duty.

Then *Dr. Littleton*, Advocate General to his Majesty, in his High Court of Admiralty, spake as follows,

Gentlemen of the Jury,

YOU have heard the Indictment opened, and we shall now call our Witnesses, who will relate to you what enormous and horrid Crimes the Prisoners at the Barr have committed in the Prosecution of the Fact laid in the Indictment; Crimes, that the bare Intention, had they not taken Effect, would have merited the highest Punishment; but this is not their case, for they were not Disappointed of their wicked Lusts and Desires, for as their Crimes are great, so have they been consummate as well as Voluntary and Malitious. I may well say, That their Wickedness has been as Boundless and as Merciless, as the Element upon which their Crimes have been committed, nor is there any part of the World that hath not been sensible of their Rage and Barbarity.

Therefore Gentlemen, as you are Lovers of Christianity, as you are Lovers of Honesty, nay, as you are Lovers of your selves, who bear the Character of Honest Men, if we prove this charge against the Prisoners, You must and ought to find them guilty, remembering that the doing Justice upon Wicked and Profligate Men, is the greatest Mercy and Protection to the Good and Honest; We shall therefore proceed to call our Witnesses, not doubting but that you will Act like honest Men, for the Honour and Welfare of your Country, without having any respect to the Dishonourable Proceedings of the former Jury.

Mr. Whitaker. Call *Jo. Gravel*. (He appeared, and was Sworn.) Let him stand up.

Mr. Soll. Gen. *Mr. Gravel*, Pray will you give my Lords and the Jury an account

account what you know of the Prisoners running away with the Ship *Charles* the Second.

J. Gravel. I was Second Mate in the Ship at that time. There was violent hands laid on me, and I was seized, and a Pistol clapt to my Breast, and carried away.

Mr. Soll. Gen. Who did it? Begin before.

J. Gravel. I was Seized by the Carpenter of the Ship, he took me by the Throat, and clapt a Pistol to my Breast,

L. C. J. Treby. Begin where the Ship was Lying.

L. C. J. Holt. You was a Mate in this Ship, now pray give an account of the whole matter.

J. Gravel. I was upon my Watch upon the Deck.

Prisoners. Pray speak up.

J. Gravel. And there was a Boat came from the *James Gally*, with People in her. And as soon as the Boat came, the Carpenter seized me, and took me by the Throat, and clapt a Pistol to me, and said, if I resisted I was a Dead Man. They took me, one by one Arm, and another by the other, and led me to my Cabin. And one with a Pistol stood at my Cabin Door, till they were got two Leagues without the *Groin*. Then *Every* came to speak to *Cap. Gibson*, who was then Sick, and was Guarded on both sides. And when he had done speaking with him, and was returned from *Cap. Gibson*, he came to me again, and said, I suppose you do not intend to go with us. I said, I would not. Then I, and the rest that would not go with them, had liberty to go ashore. And I would have gone to my Coffer and taken my cloaths, but they would not let me, and told me I should carry no more than my Cloaths on my back.

Mr. So. Gen. Did any of the Prisoners at the barr say so?

J. Gravel. That I cannot tell.

Mr. Coniers. Then go on.

J. Gravel. Then I went to *Every*, and I had some of my Cloaths, he was so kind to give me them, he gave me a Coat and Waistcoat, and his Commission that he left behind him, and *W. May* took me by the hand and wished me well home, and bid me Remember him to his Wife.

Mr. Coniers. Was there liberty for any of them that would to go ashore.

J. Gravel. *Cap. Gibson* told me so, and there were about 17 went off.

Mr. Coniers. No matter what *Cap. Gibson* told you, you say you went off; might any one that would go?

J. Gravel. That I cannot tell.

Mr. Coniers. You say there was about 17 went off, would the Boat hold more?

J. Gravel. Yes, Sir.

Mr. Cowper. Did you see any hindered that would have gone off? Were any of the Prisoners at the Barr there?

J. Gravel. No.

Mr. Soll. Gen. Do you know *Ed. Forefeth*, &c.

J. Gravel. I know some of them.

Mr. Coniers. Name the Men that you say you know.

J. Gravel. *Joseph Dawson*, *W. May*, *J. Sparks*.

Mr. Soll. Gen. They belonged to what Ship?

Jo. Gravel. To the *Charles*.

Mr. Coniers. Was there not a Boat came from the Ship *James*, before you went

went away? Was there any of the Prisoners at the garr that came in that Boat?

J. Gravet. There were about 26 that we had account of.

Mr. Coniers. From what Ship did they come?

J. Gravet. From the *James*.

Mr. Coniers. Were any of the Prisoners at the Barr any of them?

J. Gravet. Indced Sir, I cannot tell.

Cl. of Arr. Call *T. Druit.* (Who appeared, and was Sworn.)

Mr. Soll. Gen. *Mr. Druit*, was you aboard the Ship called the *Charles* the Second, when she was carried away?

T. Druit. No, Sir.

Mr. Soll. Gen. Do you know any thing of the carrying of that Ship away?

T. Druit. I was not in that Ship, I was Mate of the *James*. And about 9 came one from aboard the *Charles* the Second, and askt me for the Drunken Boatwain; and I replied short, and he went away again, and said the Ship was going to be run away withal. Whereupon I went with ten men to recover the Ship. And after I had advised with the Commander, I ordered the Pinnace to be mann'd; and when I came, the last that went into the Boat was *Pike*; and I bid them put back, and they would not, but went away to the Ship *Charles*.

Mr. Coniers. How many were there that went away in that Boat?

T. Druit. About Five and Twenty.

Mr. Coniers. Did you know all the Men? Were any of the Prisoners at the Barr there? Look on them.

T. Druit. Yes, my Lord, there was *Ed. Foreseth*, *W. Bishop*, and *Ja. Lewis*.

L. C. J. Holt. What Boat did they go away with, the *James* Boat?

T. Druit. Yes, my Lord.

L. C. J. Holt. Then they came from the *James* to the *Charles* the Second. Name their Names again.

T. Druit. *Ed. Foreseth*, *Ja. Lewis*, and *W. Bishop*.

Mr. Soll. Gen. You saw them go off, did you not?

T. Druit. It was so dark that we could not see them.

Mr. Cowper. Were these three men sent?

T. Druit. They were sent.

Mr. Cowper. Or did they go of their own head?

T. Druit. No, I do not say so. But I went to command them back again, and they refused.

Mr. Cowper. Did they make any Answer?

T. Druit. No, they only went away damning and sinking.]

Mr. Coniers. Were there any Guns sent after them?

T. Druit. Yes.

Mr. Coniers. What was it for?

T. Druit. It was to bring them back again.

Mr. Cowper. And they would not come back?

T. Druit. They did not come.

Mr. Cowper. Then they would not come.

Cl. of Arr. Call *David Creagh* (who was sworn.)

Prisoner. This man is a Prisoner for Piracy, my Lord.

L. C. J. Holt. What if he be?

Prisoner. I do not understand Law, I hope your Lordship will advise us.

L. C. Holt. I will do you all right. If he be so, that is no Objection against him; he may be a good Witness for all that.

Cl. of Arr. He is not a Prisoner for Piracy, but for Treason.

L. C. J. Holt. Tho he be a Prisoner for Treason, he is not Attainted. What is his Name?

Cl. of Arr. David Creagh.

Mr. Soll. Gen. What do you know about the Prisoners running away with the Ship *Charles*?

D. Creagh. Upon the 7th of May, 1694, I came to the *Groin*, in company with the Boatswain and several others, on board the *Charles*; and when I was going in to the Captain of the *Charles*, Captain *Gibson*, I found Mr. *Every*, the Carpenter, and some others, drinking a Bowl of Punch: And after I was come from the Captain, I came and sat down with them; and Mr. *May* drank an Health to the Captain, and Prosperity to their Voyage: And we not knowing their Design then, thought it was to our Lawful Captain, and Prosperity to the Voyage he was designed for.

L. C. J. Holt. What was your Voyage?

D. Creagh. It was to the *Spanish Indies*. And afterwards the Company broke up, and retired, and went to their Cabins. And when we were in our Cabins, we heard a great Noise above Deck; and Captain *Humphrys*, that commanded the Gally, called to us, to tell us his men were run away with the Boat, and were gone to Captain *Gibson*. To which *Every* answered, that he knew that well enough. So the men came aboard, and as I was coming out of my Cabin, to see what the matter was, I was met by *Every*, the Carpenter, and two *Dutchmen*; and they obliged me to retire again to my Cabin. And *Cap. Humphrys* fired two Guns at us. But we presently got out of reach of the Guns, and proceeded on the design. And I came out of my Cabin, and went on the Quarter-deck, where I met *Every* and the Carpenter together; *Every* was cunning the Ship.

L. C. J. Holt. What is the meaning of that?

D. Creagh. That is, to direct in the Steering of her. So *Every* took me by the hand, and ask'd me if I would go with him? And I Answered, I did not know his Design. He said, there were but few that knew it. Says I, tell me who do know it, that if you will not tell me your self, I may ask them that can tell me. But he said, we should all know by to morrow Morning eight a Clock. I told him, that would be too late to repent of the Design. The Carpenter stood by him, and said, Do you not see this, Cock? Yes, says I, I do. Says he, this Man, and old *May*, and *Knight*, I can trust with any thing, they are true Cocks of the Game, and old Sports-men. Then said I, I suppose they know your Design. Yes, says he, they do, and if it were a thing of ten times the Consequence, they should know it. Upon this the Carpenter came to me, and said, If you do not go down, I will knock you on the Head. And as I was going down, I met with *W. May*, the Prisoner at the Barr. What do you do here? Says he. I made him no Answer, but went down to my Cabin; and he said, God damn you, you deserve to be shot through the Head, and he then held a Pistol to my Head. Then I went to my Cabin, and presently came orders from *Every*, that those that would go ashore, should prepare to be gone. And when the Captain was got out of Bed, who was then very ill of a Fever, *Every* came and said, I am a Man of Fortune, and must seek my Fortune. Says *Cap. Gibson*, I am sorry this happens at this time. Says he, if you will go in the Ship, you shall still command

command her. No, says *Cap. Gibson*, I never thought you would have served me so, who have been kind to all of you; And to go on a design against my Owners orders, I will not do it. Then, says *Every*, prepare to go ashore. Upon which, the Captain, and several others of us, went into the Boat. When we were by the Ships side, I heard them order the Doctor to be secured; but if there was any more would go into the Boat they might. And we came in to the Boat to the Number of Sixteen. And they gave us four Oars in the Pinnace, and set us a drift.

L. C. J. Holt. Where did he set you?

D. Creagh. He set us aboard the *James*, my Lord.

L. C. J. Holt. That is, you were turned off from this expedition.

D. Creagh. Yes, my Lord.

Mr. Coniers. Was there any room for more in the Boat?

D. Creagh. Yes there was.

L. C. J. Holt. Was there liberty for any more to go?

D. Creagh. Yes, my Lord.

Mr. Soll. Gen. What do you know of the Prisoners at the Barr?

D. Creagh. I know only *W. May*.

Mr. Cowper. What time past from the coming of the Boat, to the time of your going off?

D. Creagh. About two hours. Sir,

Mr. Cowper. Was there any Guns fired in that time?

D. Creagh. Yes, Sir, one or two from the *James* by *Cap. Humphreys*.

Mr. Cowper. Was this done in the Ship with silence? Or was there any uproar, or opposition?

D. Creagh. No, there could be no opposition: For the Men came from the whole Squadron, and came upon us and surprized us, being assisted by those that belonged to the *Charles*.

Mr. Cowper. But did no body make opposition to their going? Did not *Cap. Gibson*?

D. Creagh. No, *Cap. Gibson* could not, being Sick.

L. C. J. Holt. But he went ashore?

D. Creagh. Yes, my Lord.

L. C. J. Holt. Was any body stopt that would go?

D. Creagh. No, my Lord, none but the Doctor.

Mr. Soll. Gen. Now call *Jo. Dan*: Who appeared and was Sworn.

Mr. Coniers. What Ship were you aboard of at the *Groin*?

J. Dan. The *Charles* the Second.

Mr. Coniers. Now pray give my Lord and the Jury an Account, what you know of the taking away of the Ship *Charles* the Second, and what past there.

J. Dan. Yes, Sir, VVe came to the *Groin*, and had been there about three or four Months, and we had been about eight Months out of *England*, and we lay for our VVages, and there was no VVages to be got. But in as much as we wanted VVages, *Every*, and several others, contrived to carry this Ship away. So that Night, which was *Sunday*, they went ashore; and when they came aboard again, made some Men Privy to it, whom I know not. And the *Monday* following, I think, the Packet went out in the Morning, and the Night being fair, was ordered to give notice. And they came to the *Dove*, and about Nine or Ten her Boat broke off, and she haled us: For they told *Cap. Humphreys* they were coming to run avay vvith our Ship. So he hales the

James.

James. And presently some of the Officers came and ordered their Pinnace to be mann'd, and it was so. And when they gave this order, there was *Every* and 25 or 26 Men. And as they came aboard, our Cables were cut, and ready to go. And coming under the Castle, we cut all the Boats but two, and stood out to *Sea* about two or three Leagues. And there *Every* went to *Cap. Gibson*, and as they said, to ask him if he would go with them, or not? He said, no. Then he said, he must prepare to go ashore; and he did so, and several others with him. And the word was given about, that they that would go ashore might go; but whether these Men heard it or no, I cannot tell; and no Mans Name was mentioned to be stopt, but the Doctor. And when they went away, they cry'd, there was water in the Boat, and they desired a Bucket of us, to heave it over, and we gave them one; and away they went, I think, about 15 of them, and no more did offer to go as I saw, nor did I see any hinder any that would go: And afterwards, they that went off, went about their Business, and we about our Business. And we came to the *Ile of May*, and Victual'd our selves there. And there we met with three *English* Ships, out of which we took some necessarys for our selves, and among the rest several Men, nine Men we took out of them.

Mr. Soll. Gen. Were the Prisoners at the Barr in the Ship, when they went away?

J. Dan. Yes,

Mr. Soll. Gen. Name them.

J. Dan. *Ed. Forefeth, W. May, J. Lewis, Jo. Sparks, W. Bishop.*

Mr. Coniers. Which of them was aboard the *Charles*, that belong'd to her?

Jo. Dan. *W. May*, and *J. Sparks*, and *Ed. Forefeth, Ja. Lewis*, and *W. Bishop*, came from the *James*.

Mr. Comper. Was it not generally understood, that they were going to run away with the Ship, when they came to *Cap. Gibson*?

J. Dan. Yes, Sir, they knew to be sure.

Mr. Soll. Gen. Did you know that they assented to it?

J. Dan. No, Sir, I did not hear them say so.

Mr. J. Evers. Did they desire to go ashore with the rest?

J. Dan. I saw none hindered.

L. C. J. Holt. Was *Ed. Forefeth* in the Ship then?

J. Dan. *Ed. Forefeth* was in the Ship then.

L. C. J. Holt. Was he at the *Ile of May*, taking in necessarys with you?

J. Dan. Yes, Sir,

L. C. J. Holt. What did he do in the Company?

J. Dan. He was in the Ship, and came from the *James*.

L. C. J. Holt. And so did *Bishop*, and so did *Lewis*.

J. Dan. Yes, my Lord, these three, and the other two belong'd to the *Charles*.

Mr. Whitaker. Did any of the Ships Crew go ashore at the *Ile of May*?

J. Dan. Yes, Sir, I think so.

Mr. Soll. Gen. But I think, you say, that the word was given about, that any might go that would.

Mr. Coniers. Go on vvith the proceedings after you vvere at the *Ile of May*.

J. Dan. After vve had Victual'd, vve took in some Men.

Prisoners. VVe have been Tryed for that already, my Lord.

L. C. J. Holt. Go on.

J. Dan. After vve had been there, and took in vvhat vve had occasion for;

our Quarter-Master said, he would give them Bills for what he took of them. Then we went to the Coast of *Guinea*, and took several *Negroes*, and carried them away with us. And afterwards we went to the *Island of Princes*, where lay two *Danes*, and we fought them, and took them; and after we had taken them, some of the Men went ashore at the *Island of Princes*, and others went along with us; and we brought the Ships to *Vandepo*, and burnt one, and carried one with us. Then we came to *Cape Lopes*.

L. C. J. Holt. Where is that?

J. Dan. Under the Equinoctial Line. And there we fired a shot through the little one to sink her, for the Men could not agree, and so we could not carry her with us. We went about the Cape and touch'd at *Madagascar*.

Dr. Littleton. Had not these men their part and share of the Plunder?

L. C. J. Holt. You go too fast, Sir.

Mr. Coniers. What was the next Ship you met with, after you had rounded the Cape?

J. Dan. The next was a small Vessel, about 30 or 40 Tun, and we put her ashore, and took a small matter out of her, and let her lie. And there we put this Gentleman, *Mr. May*, ashore. And we seeing 3 *English* Ships a coming, we left him there, and went to the *Equinoctial Line*: And afterwards, for want of Bread and Water, we came again, and took another small Vessel, and some *Rice* and *Pody* out of her, and sunk her, and then went to the *Cape* again, and took in *W. May* again; and met another Vessel, and took *Rice* and meal out of her, and sunk her too. And then we went to the *Red Sea*, to a Town called *Meat*, and the People would not trade with us, and we burnt it. And thence we went up to the *Red Sea*, as far as we could. And going up the *Cape Adin*, we met with two *English* Privateers more, and they came and joyned with us.

L. C. J. Holt. You call them Privateers, but were they such Privateers as you were?

J. Dan. Yes, my Lord. I suppose they had Commissions at first, but I suppose they did not run so far as that.

Mr. Coniers. Did you go all on the same Design?

J. Dan. Yes, they sailed on with us, and we made the best of our way, and came up into the *Red Sea* in a little time, and came to an Anchor at *Bobs Key*, and had lain there but a night and a day, and there came up 3 *Englishmen* more from *America*, and they likewise consorted with us, and we lay there about 5 Weeks; and in that time we expected the Fleet to come down.

Mr. Coniers. What Fleet?

J. Dan. The *Moorish* Fleet, that came from *Nocha*. They past us on *Saturday* night unseen, and we took a Vessel which gave us an account that they were gone. And then we followed them, and about 3 days after we made Land, we came up with one of them of about 2 or 300 Tuns, and we fired a Broadside at her, and small shot, and took her, which, after we had taken her, we plundered, and took out some Gold and Silver.

Mr. Coniers. And what did you do with it?

J. Dan. We brought it aboard our Ship.

Mr. Coniers. Did you share it?

J. Dan. Not then, but after we took the other Ship.

Mr. Coniers. What was that other Ship?

J. Dan. After we had taken her, we put some Men aboard to keep her with us; and about two days after, we were lying at Anchor at *St. Johns*, and there was a great Ship called the *Gunsway*; and we weigh'd Anchor, and fought her

her about two hours, and took her, and put some Men aboard her, and plunder'd her. And after we had done as much as we thought convenient, vve sent her to *Surat* vwith the People in her. And then vve stood further to the *Indian Coast*, and shared our Money about a vveek after.

L. C. J. Holt. That vvas a brave Prize, vvas it not, the best you had all the Voyage? *J. Dan.* Yes, my Lord. *L. C. J. Holt.* Did you all share?

J. Dan. Yes, all that vvere in the Ship.

L. C. J. Holt. You have given a good account of this matter. Was *Ed. Forester* there?

J. Dan. Yes, my Lord.

L. C. J. Holt. VVhat did he do? vvas he active?

J. Dan. I did not see him act.

L. C. J. Holt. Had he a share?

J. Dan. Yes my Lord, he had.

L. C. J. Holt. VVas *W. May* there?

J. Dan. Yes my Lord.

L. C. J. Holt. VVhat did he do there?

J. Dan. He could do but little then; he had his share.

L. C. J. Holt. And vwhen you took him in again, vvhath did he do? did he do his busines as a Seaman?

J. Dan. Yes my Lord, till he vvas sick.

L. C. J. Holt. VVas *W. Bishop* there?

J. Dan. Yes my Lord, he vvas among the rest.

L. C. J. Holt. VVhat did he do? Did he consent and agree to vvhath vvas done?

J. Dan. He had share of the money. *L. C. J. Holt.* Did *J. Lewis* share too?

J. Dan. He had a share, as far as vvas allow'd by the Company.

L. C. J. Holt. Did *J. Sparks* share vwith you too?

J. Dan. Yes my Lord, as far as the Company thought fit to give him.

Mr. Cowper. VVhen you say, as the Company thought fit, vvhath do you mean? Howv did they share it?

J. Dan. Some had 1000*l.* some 500, others 300.

Mr. Cowper. Had all the Prisoners some share?

J. Dan. Yes Sir, all had some share.

Mr. Whitaker. VVhat did you do vwith the *Charles* the 2d, after the Voyage?

J. Dan. VVe left her at *Providence*.

L. C. J. Holt. If any of you Prisoners at the Bar vwill ask him any Questions, you may.

Mr. Justice Turton. VVhat Provisions vvere aboard the *Charles* vwhen she vvas taken avway?

J. Dan. I cannot tell.

Mr. Justice Turton. What quantity of Bread vvas there?

J. Dan. A pretty deal, I cannot tell the quantity.

Mr. Justice Turton. And vvere there any Guns aboard her, and small Arms?

J. Dan. Yes my Lord, there vvere. *W. May.* My Lord, may I speak for my self?

L. C. J. Holt. If you vwill ask him any Questions you may; You shall be heard again to speak for your self by and by.

W. May. I desire he may be askt vvhether I vvas taken sick?

L. C. J. Holt. He asks you vvhether he vvas taken sick?

J. Dan. I cannot justly tell that, I think it vvas at *Allibore*, at the Coast of *Guinea*.

W. May. I did not lie down vwith it?

J. Dan. No, you did not, but your first being taken sick vvas at *Allibore*.

W. May. My Lord, I desire you vwill ask him, vvhether he thinks I had any knowvledge of the going avway of the Ship?

L. C. J. Holt. You hear vvhath he says, What do you say? *J. Dan.* I knowv nothing of that. *L. C. J. Holt.* You vvere there, and you had a share of the Prize; you drank an Health to the success of your Voyage.

W. May. I hope, my Lord, you vwill not be angry for asking Questions.

L. C. J. Holt. No, no body is angry, you may ask vvhath questions you vwill.

Then *Philip Middleton* vvas called and svvorn.

Mr. Coniers. Pray tell vvhath you knowv of taking avway the Ship *Charles* the 2d?

P. Middleton. I cannot say any thing of running avway vwith the Ship; for I vvas asleep then: bnt afterwards, in the morning, they called up all Hands; and the Captain said, every man should share alike, only he would have two shares.

L. C. J. Holt. Who said so?

P

P. Middleton. Cap. Every. From thence they went to *Bonyvis*, and took in some Salt; and from *Bonyvis* they went to the *Isle of May*, and there they took 3 *English Ships*, and plundered them; and they took the Governour aboard their own Ship till they had done (for then they could demand what Victuals they had a mind to) and then they sent him away again. And from the *Isle of May* they went to the Coast of *Guinea*, where they put out *English Colours*, to make the Natives come aboard to Trade, and when they came aboard, they surprized them, and took their Gold from them, and tied them with Chains, and put them into the Hold. and when they came to a place called the *Island of Princes*, they gave 7 of them away for slaves: And then they went to *Vandepoe*, where they clean'd their Ship; and from *Vandepoe* they went to *Cape Lopes*, and from *Cape Lopes* to *Annibo*, and from *Annibo* about the Cape; and at *Madagascar* they watered their Ship, and got Provisions, and Cows to salt up; and from thence they went to *Joanna*, and from *Joanna* they went to take a Junk, and took Rice out of her, and sunk her; and from thence they went to the *Equinoctial Line*, and because they were short of water and rice, they went back again to *Joanna*: And the wind being contrary, they went to *Commeroe*, and there they met a small *French Vessel*, and they took her, and sunk her; and then went to *Joanna* again, and there took in Mr. May again: And then went to *Meet*, and because the Natives would not Trade with them, they burnt their Town: And then they went to *Bobs Key*, by the mouth of the *Red Sea*: But before that, they met with an *English Vessel*, that was on the same Account that we were, and we rode there a Night or two; and they saw there another Sail a coming, which proved to be another *English Vessel*: And in the Morning they saw two more, *May*, *Farrel*, and *Wake*, were the Captains: And on *Saturday Night* all the *Mocha Fleet* passed by: And on *Sunday Morning* they took another Vessel, that told them the said Fleet was gone by; and so they consulted whether they should follow them, or stay there. And then they went after them and overtook them, and took one that was about three or four Hundred Tun, and took Gold and Silver out of her; and sent Men aboard her to plunder and keep her. And next day they spied another Sail, and got up their Anchor, and stood to her, and took her; she was called the *Gunsway*; they killed several Men aboard, and when they had taken and plundered the Ship, they left the Men aboard to go to *Surat* again. And then they went to *Rachipool* in the *East-Indies*, and got water and necessaries; and from thence to *Degorees*, and watered again; and then to *Dascaran*, where they set about 25 *French Men* ashore and 14 *Danes*, and some *English*: For they were afraid, if they came to *England*, and were caught, they should be hang'd, and they thought themselves there secure. From that place they went to *Ascension*, and then to the *Island Providence* in the *West-Indies*: And then they wrote a Letter to the Governour, to know if he would let them come in, and said they would present the Governour with 20 pieces of eight, and two pieces of Gold, if he would let them come in; and the Captain, because he had a double share; he offered 40 pieces of eight, and four of Gold; and with that they sent some Men down, *Adams* and others, with the Letter: And they came again, with a Letter, from the *Island*, that they should be welcome, and come and go again when they pleased.

Mr. Coniers. Look on the Prisoners at the Barr, were they all there?

L. C. J. Holt. Do you know *Ed. Foreseth*? Was he there? Did he belong to the *Charles the 2d*? *P. Middleton.* He came from the *James*. *L. C. J. Holt.* Was *W. May* there?

Ph. Middleton. He was aboard the *Charles*. *L. C. J. Holt.* Was *W. Bishop* there?

Ph. Middleton. *W. Bishop* came from the *James*. *L. C. J. Holt.* Was *J. Lewis* there?

Ph. Middleton. Yes, he came from the *James*. *L. C. J. Holt.* Was *Jo. Sparks* there?

P. Middleton. Yes, he was aboard the *Charles*. *L. C. J. Holt.* Had all the Men their shares?

Ph. Middleton. Yes, such as the Company thought fit to allow them, all of them.

L. C. J. Holt. Had these Men their shares of the several Prizes they took?

Ph. Middleton. Yes, they had.

L. C. J. Holt. Were they Active in the taking of the Prize?

Ph. Middleton. They were, as far as I saw.

L. C. J. Holt. Were not Divers others set ashore, besides *Cap. Gibson*?

Ph. Middleton. I never heard any repine, or wish they had been ashore, or that they had never come along with the Ship.

L. C. J. Holt. But do you know of any others that were set ashore?

Ph. Middleton. Yes, a great many, *Mr. Gravet* and several others.

Mr. Corper. I think, you said, some *French* and *English* were set ashore in the *Indies*.

Ph. Middleton. Yes, Sir. *Mr. Corper.* Were they set ashore willingly?

Ph. Middleton. They desired to be set ashore.

Jury-man. He says, in the Morning *Cap. Every* called them above Deck, and gave leave to any to go ashore, that were not willing to go with them; we desire to know whether any of the Prisoners were there at that time?

Ph.

Ph. Middleton. I know not that, all hands were called up.

Mr. Justice Turton. What number of Persons were Aboard, when the dividend was made?

Ph. Middleton. About a Hundred and Sixty.

Mr. Justice Turton. What might the shares be?

Ph. Middleton. Some a Thousand Pound, some Six Hundred, some Five Hundred, and some less, according as the Company thought they deserved.

Mr. Justice Turton. Had not you a share?

Ph. Middleton. Yes, what the Company thought fit, and they told me that would serve to put me out an Apprentice, and that I should never go near my Friends.

Mr. Justice Turton. How much was that you had?

Ph. Middleton. Above an Hundred Pound.

Mr. Coniers. What became of it?

Ph. Middleton. *Jo. Sparks* Robb'd me of it.

L. C. J. Holt. The Kings Counsel have done with the Evidence, and therefore now is your time for to speak, if you have any thing to say for your selves.

Ed. Foreseth. What have you to say?

Ed. Foreseth. My Lord, I desire you would call *Mr. Druit*, and ask him whether I was one of the Pinnaces Crew.

L. C. J. Holt. You hear what he says?

T. Druit. Yes you were, and I commanded you to come back, and you refused.

E. Foreseth. Did not you command me to go?

T. Druit. Yes, and afterwards commanded you to come back, and you refused.

E. Foreseth. You did not command me back.

T. Druit. Yes I did, and Fired at you, and Shot through the Boat.

E. Foreseth. I held Water with my Oar, that was all I could do.

L. C. J. Holt. What did you command him to do?

T. Druit. To rescue the Ship.

L. C. J. Holt. Instead of rescuing the Ship, you run away with her. He commanded you back, and you refused to come back.

E. Foreseth. I could not bring her back my self, nor come back, unless I should leap over Board.

L. C. J. Holt. Have you any more to say?

E. Foreseth. My Lord, when I was in the Boat, I knew not who was in it, nor how many. When I came aboard the *Charles*, the Sails were loose, and I was in a very sorry condition; they cut the Boat off, and put her a Drift, I could not get into her, she was gone in a Minutes time, I did not know which way or what Men there were in her, nor heard nothing till two a Clock the next day. And I hope, my Lord, as we are but poor Sea-faring Men, and do not understand the Law, you will take it into consideration.

L. C. J. Holt. But all you Sea-men understand that Law, that it is not lawful to commit Piracy, and he that doth deserves to be Hang'd.

E. Foreseth. My Lord, I never did.

L. C. J. Holt. Did you think it no Piracy to Rob?

E. Foreseth. I was forc'd to do what I did.

M. J. Eyers. You all compell'd one another.

E. Foreseth. My Lord, I was sent of an errand. I hope as we are poor Men in this condition, you will take it into consideration.

L. C. J. Holt. We shall. Have you any more to say?

E. Foreseth. No, my Lord.

L. C. J. Holt. *W. May*, What do you say?

W. May. Here is one of the King's Evidence, that testifies that I knew nothing of the Ships going away, and I believe very few knew of it, I believe not above nine or ten.

L. C. J. Holt. None of them say you were at the Consult. But one says that

you said, *God Damn you, you deserve to be Shot through the Head*; and held a Pistol to him.

W. May. I never was any higher than the under Deck, I was coming up the Hatch-way, and Captain *Every* was standing, and Commanding the Ship.

L. C. J. Holt. *Every* was no Officer, he had nothing to do to Command; he was under Captain *Gibson*, and took the Ship from *Gibson*.

W. May. My Lord, I know nothing of the Ships going away.

L. C. J. Holt. You should have stuck to Captain *Gibson*, and endeavoured to suppress the Insolence of *Every*. Cap. *Gibson* was the Commander, you ought to have obeyed him; and if any had resisted him, or gone to put a force upon him, you should have stood by him.

W. May. I was surpris'd.

L. C. J. Holt. How?

W. May. By Cap. *Every*, and knew nothing of it.

L. C. J. Holt. You were Zealous from the beginning, and said to one, *Damn you, you deserve to be Shot through the Head*.

M. J. Turton. And one says you Drank a Health to your good Voyage.

W. May. Presently after I heard this rumour, I came up the Hatch-way, and Cap. *Every* says, *You May, I believe you do not love this way, pray get down to your Cabin*. So I went to my Cabin, which one that is now at *Virginia* could tell me; which I hope will be considered, that I cannot have my Witnesses for me.

L. C. J. Holt. What have you more to say? Have you any Witnesses to call.

W. May. I stay'd in the Cabin a considerable time. I was thinking, I must leave my old Captain without seeing him; and I begg'd them to give me leave to come to him; and there was two Men stood with naked Cutlases, and would not let me come to him. We had some confabulation together, and I begg'd the favour to come in, and at last they permitted me; and the Doctor was Anointing the Commanders Temples. And as I was coming along, I had my hand cur; and I went to the Doctor, to desire him to bind up my hand. When I came out again, they began to hurry the Men away. Here was Mr. *Gravet*, the second Mate, who is now one of the King's Evidence; and I told him he should Remember me to my Wife, I am not like to see her; for none could go, but who they pleased: For when those Men were in the Boat, they cryed to have a Bucket, or else they should sink, they having three Leagues to go: And I do not know how they could go so far with more, when their Boat was like to sink with those that were in her, as some of the King's Evidence have testified.

L. C. J. Holt. Who will you call?

W. May. Mr. *Dan*. (*Who appear'd.*)

L. C. J. Holt. Mr. *Dan*, answer the question, whether there was calling for a Bucket several times by the Men that were in the Boat.

Ja. Dan. They did call, and a Bucket was given them to Pump with.

L. C. J. Holt. You were willing to be rid of them.

W. May. I have more to say. Afterwards, if I should have denied to go with them, I might have been kill'd by them; and I knew not whether it be better to be accessary to my own death, or to suffer by the Law of the Nation.

Sir Ch. Hedges. You seem to say that you were under a constraint and terrour. Did you make any complaint or discovery so soon as you had liberty, or at your first coming into the King's Dominions?

W. May. Yes, at *Virginia*.

S. C. H. Where did you first arrive in *England*?

W. M. At *Bristol*.

S. C. H. When you came to *Bristol*, did you discover it to any Magistrate?

W. M. When I came to *Bristol*, I had a design to discover it to the Lords of the Admiralty.

L. C. J. H. Did you go to a Magistrate?

W. M. I was several days in the King's Collectors House, and did discover the whole to him; and at *Providence*.

L. C. J. H. You speak now of *Providence*, but in *England* who did you discover it to?

W. M.

W. M. I was taken Sick, and could not go abroad:

L. C. J. H. You might have sent to the Mayor of *Bristol*.

W. M. I knew nothing of it, I intended to declare it to none but the Lords of the Admiralty. I knew no man there, but two men that were Fellow-Trademen in *Virginia*. I came from *Virginia* by the first Ship; and if that Ship had come away before the Fleet, I had been at home long before. I lay sick at *Bristol* four or five days, and the fifth day I got passage for *London* in the Coach; and was taken three miles off *Bath* by the King's Messenger, by one who betrayed me, and I was carried back to *Bath* again. And there was the Duke of *Devonshire*; and there they Examined the whole matter, in every particular, as I have now declared to the Court. And my Lord desired the Messenger should take me away again, and see me safe to *London*, which was all he said to me. I have more to say, as to my being put ashore at *Joanna*. I had no place to go to, but lay in a lamentable Condition, I could not put Water to my mouth without help, and remained useless of Hands or Feet, despairing of my life. I desired to go ashore, to see if the Air would do me any good; and I went ashore at *Joanna*, with another Man, *Gunning*, and others for Refreshment. So the second day we went in, there appears three Ships, which were *East-India Men*. Captain *Every* being Surprised by these ships, hastened his Men and Water aboard to get out to Sea, that he might not be surprised in the Road without his Men on Board, who were come ashore for the Sick. And I told them, I will not go with you, I will rather trust to the mercy of my Countrey-men, or the mercy of the *Negroes*; I should endanger my Life, if I go aboard; If I stay, no question my Countrey-men will have Compassion on me; And if I have committed any thing worthy of Death, they have Authority to put me to Death according to the Law of the Nation. And I applied my self to Mr. *Edgcomb*, when he came ashore, and he gave me Scurlous Language. But I replied, I am a weak man, for me to stay behind is Death; I had rather suffer Death by the Laws of my Countrey, then to be left to the mercy of these *Negroes*. Mr. *Edgcomb* says, I will take you down with me, and will hang you there too.

L. C. J. H. Where?

W. M. At *Bombay*, where he said I should be Tried. His Mate, and several other *English-men* came to see me, and brought one thing or other to refresh me. And at last, at Night he sent his Doctor and Purser to me, who said, The Captain is just now sending his Boat for you. I replied, I am ready, here is all I have in the World, and he goes away about two a Clock in the Morning. And I remained seven or eight Weeks after at the Mercy of those *Negroes*, and had Perished, but that a *Negro* hearing an *English-man* was there came to me; he lived at *Bednal-Green*, and spoke *English* very well. He went from *England* in the Ship *Rocheester*, taken at *Guinea* some time before. The Captain commanded this *Negro* to go for the Long-boat, and turn her adrift; which he does, but goes away with her himself; and in the Fight, says, The Ship blew up by an accidental Fire, and several were lost. This *Negro* I got to look after me, and he did really feed me, and got me all necessaries belonging to me: And by that means I saved my Life. Now when Captain *Every* came in again, I could not go nor stir.

L. C. J. H. Do not call him Captain, he was a Pirate.

W. M. He commanded me, I was forced to obey him.

L. C. J. H. For that matter call *Gravet* again, because you and he were very kind together; you shook hands with him, and bid him farewell, and remember you to your Wife. Mr. *Gravet*, Do you remember when you went into the Boat? Did *W. May* take his leave of you, or was he unwilling to be left behind?

J. Gravet. When we had liberty to go out of the Ship, this Man, *W. May*, took me by the hand and wished me well home, and bid me remember him to his Wife, and was very merry and jocund, and knew whither they were going.

Mr. J. Turton. Did he express any inclination to go with you?

J. Gravet. No, my Lord, not at all.

L. C. J. H. Have you any more to say.

W. May. Yes, my Lord, I remained in this condition till I came to *Providence*; and the King's Evidence can testify what I say. I only beg Mercy of this Honourable Bench, to consider my weak State and Condition that I have been in.

L. C. J. H. Have you done?

W. May. Yes, my Lord.

L. C. J. H. Then the next. *W. Bishop*, What have you to say?

W. Bishop. I belonged to the Ship *James*, and at the *Groyn* the Men began to complain about wages, and that was the first beginning of the disturbance about this Plotting. We were Shipt out of *England*, in Sir *James Hubland's* service, to the *Spanish West-Indies*. Upon this Mutiny among the Men for their wages, several Men went aboard the Kings Ships, and

and desired to be entertained on Board any of them to go for *England*; and we all went away again to the Ship because we could not be entertain'd. But this Design of *Everies* I did not know of. On the 17th day Capt. *Humphrys* calls, and says, My Men are gone aboard the *Charles*, I think. And he calls out, says he, Mr. *Druit*, Man the Pinnace. I being then on the Deck, at night, the men all quiet, as I thought, I went into the Pinnace, and I was no sooner in, but in comes 15 or 16 more that knew of the Design; but I was then sent, and knew it not. And they put off the Boat, and over-powered us; and several of us would have gone aboard again, and they would not suffer us. And when we came aboard the Ship *Charles*, they had cut the Cables, and the Sails were loose, and several Men went from the *Charles* to the *James* in a Boat; and they Commanded the *Innocent* to do what they pleased, with Pistols and Cutlases; and they Commanded me to go into the Hold, to do what they pleased. And I not knowing of this matter, the Men that were in the Boat called, Hand the Buckets, or we shall Sink. And I heard afterwards, that none went ashore, but whom they pleased, that is, *Every* and his Crew. And I not knowing of it, could not go; and if I had known it, I had not been admitted to go. Then we were carried two Leagues without the *Groyn*.

L. C. J. Holt. Have you any Witnesses to call?

W. Bishop, The King's Evidence is my Witness; he commanded me to go into the Boat.

L. C. J. Holt. Will you ask him any Questions?

W. Bishop. No, my Lord.

L. C. J. Holt. *James Lewis*, What have you to say?

James Lewis. I had been in *France*, a little before the Ship came to the *Groyn*, a Prisoner there; but I knew nothing of *Everies* Design. By the command of our Officer I went aboard the Boat, and as soon as we were in her, we were over-power'd, and carried away; they took the Oars out of our Hands, and carried us to the Ship *Charles*. And when we came aboard, they put the Boat a drift, and then they commanded me into the Fore-Castle; they had Arms but we had none, and so were forced to obey them. When the Boat was going off, I heard a Noise of crying out for a Bucket. And when we were gone from the *Groyn*, we were forced to do what they would have us; it was against my Consent, and against my Will.

L. C. J. Holt. *Jo. Sparks*, What say you?

J. Sparks. When Captain *Humphries* called to them that were gone into the Boat, I was asleep; but with the Noise of *Gravens* crying out, He is coming, I awaked; and all put the Candles out for fear I should see them. And when the Men were come aboard, I went on the Deck, and they trow'd the Hammocks and knock'd me down.

L. C. J. Holt. Who did it?

Jo. Sparks. The Hammocks they brought from the other Ships. I durst not do any otherwise than they bid me; I was innocent of the thing. I ask'd what they were going to do, and they said they were going for *England*.

L. C. J. Holt. Who told you so?

J. Sparks. *John Dan*.

L. C. J. Holt. *J. Dan*, Did you tell *J. Sparks* the Ship was going for *England*?

J. Dan. I do not remember I saw him all the Night.

L. C. J. Holt. I would ask you if he had no Share of the Plunder.

J. Sparks. I was forced to take it.

L. C. J. Holt. *Phil. Middleton*, You had some Share, had you not?

Phil. Middleton. Yes, my Lord.

L. C. J. Holt. What became of it?

Phil. Middleton. They took it away from me.

L. C. J. Holt. Who took it from you?

Phil. Middleton. *J. Sparks* robb'd me of it by Night.

J. C. J. Holt. Did he take all away?

Phil. Middleton. Yes, all that I had there, Two hundred seventy odd pieces of Gold; it was in a Belt.

J. Sparks. He took out his Money and shewed it to the Troopers, and they made him Drunk and got it from him; and the next Morning he said they took it from him.

Phil. Middleton. I was forc'd to say so, because if I had said he had it, he would have made no more but to cut my Throat.

L. C. J. Holt. Have you any more to say?

J. Sparks. No, my Lord.

Mr. Soll. Gen. May it please your Lordship, and you Gentlemen of the Jury, I am of Counsel in this Case for the King against the Prisoners at the Bar. They are
Araign'd

Araign'd for a very high Crime, a Robbery upon the Seas. It was not a less Crime because committed on the Sea, but rather the more. These Men had a Trust reposed in them to assist their Captain in his Voyage; but instead of that, they resist their Captain, turn him out, and run away with the Ship. They could not find Shelter in any other part of the World, and I hope you will make it appear such Crimes shall not find Shelter here, more than in other parts of the World. These are Crimes against the Laws of Nations, and worse than Robbery on the Land: For in Case of a Robbery on the Land, we know who is to pay it; but in a Robbery by Sea, it often happens that innocent Persons bear the loss of what these Men do. It has been very plainly proved against the Prisoners, That the Ship *Charles* was run away with from the *Groyn*. And it is as plain by two Witnesses, That all the Prisoners at the Bar were in this Ship; by three that *W. May* in particular was one of them; and by one that *W. May* was so far concerned, that because *J. Gravel* seem'd to dislike it, he said, He deserved to be shot through the Head: So that he that would make himself the most Innocent of the five, is most Guilty.

Now they have only this to say for themselves, that they were forced to do what they did. But it has been proved to you that they were not forced; it was said, All might go that would. And it is not proved on their side, that any one of the Prisoners did seem to dissent from their going away. It is proved that they all made use of this Ship to very bad Purposes; that they took and plunder'd several Ships, and shar'd the Booty. We do not produce this to prove them Guilty, but to shew that they made use of this Ship to this very Purpose. Now if you allow what they say, That they were forced to go away; than you must never convict, at any time, one or two Highway Men that robs in the Company of four or five; for they may say too that they were over-power'd, and forc'd by their Company. It is so, not only in case of Robbery, but in all other Crimes also. They have said a great deal indeed, but without any manner of probability of Truth. They have produced no Witnesses for themselves, to prove any thing they have said. And the Witnesses for the King have given Testimony without any Exception. And, I hope, you will vindicate the Credit of the Nation, and find them Guilty as the Evidence has proved them.

L. C. J. Holt. Gentlemen of the Jury, These five Prisoners, *E. Forseth*, *W. May*, *W. Bishop*, *J. Lewis* and *J. Sparks*, are Indicted for a Piracy and Robbery committed on the High-seas, some distance from the *Groyn*, in taking and carrying away a Ship, and several Goods therein contained; she was call'd the *Charles* the Second. This was done in May last was two Years, 1694. You have heard what Evidence has been given on this Indictment against the Prisoners.

It has appear'd that this Ship was bound in a Voyage to the *West-Indies*. Two of the Prisoners, *W. May* and *J. Sparks*, were Seamen then on board this Ship, and engaged in the Voyage; the other three were not Mariners in that, but in another Ship, call'd the *James*, that lay, at that time, near the *Groyn*; but they came aboard the Ship *Charles* before, and continued on board her when she was carried away.

That there was a Piracy committed on the Ship *Charles*, is most apparent by the Evidence that hath been given; that is, a Force was put on the Master and some others of the Seamen on board her, who because they would not agree to go on a piratical Expedition, had liberty to depart, and be set ashore. But the Ship was taken from the Captain, who was possess'd of her for the use of the Owners, and was carried away by *Every* and others of his Crew that remained on board her; and others came from the *James*, which taking was a Piracy that is manifested by the use they did put her to, for they did afterwards commit several other Piracies with her, and took several English and Danish Ships, and then went to several Islands, Countries and Places, as to the Isles of *May* and *Princes*, to *Madagascar*, and then to *Joanna*, and afterwards to *Meat*, and then to the *Red-Sea*; and at the entrance of the *Red-Sea* committed more Piracies, in the manner as you have heard, and has been very particularly described to you. So that I must tell you, beyond all contradiction, the force put on the Captain, and taking away this Ship, call'd the *Charles* the Second, was a Piracy; and for that particular Fact these Prisoners are now Charged.

The Matter you are now to inquire after, is whether all these Prisoners were Guilty of this Piracy, or which of them.

As for *Ed. Forseth*, *Bishop* and *Lewis*, it hath appear'd to you, that they, with others, were aboard the Ship *James*; and that there was a Report spread about of a Plot against the Captain of the *Charles* the Second, and a Design to carry that Ship away. To prevent which, there were some of these Men sent out in a Boat, by the Captain of the *James*, to this Ship to assist Captain *Gibson*, but instead of preventing this Piracy, they stayed behind and went along with these Men that carried away the Ship.

As to *Will. May* and *Jo. Sparks*, that were of this Ships Crew, they continued on board, and were Parties in all those Piracies.

There was a Consult, it seems, by some particular Persons, of which *Every* was the Ringleader, how to effect this Design, Captain *Every* as they call him; though he was no Captain, but was under the Command of Captain *Gibson* that had the Conduct of this Ship.

It's true, it is not proved to you that these Men were at that Consult; for, it seem, they were too many, for they were about 160 that remained on board when the Ship was carried off.

Now for *W. May*, *Jo. Gravel*, second Mate, that was aboard, and though he had a Pistol clapt to him to prevent any resistance, yet had liberty to depart; and upon his going off discoursed with *May*, who shook Hands with him, and bid him farewell, and remember him to his Wife. And therefore it is evident that *W. May* was under no force to stay; he staid with his good Will, and did consent to the Piracy. And then another Witness is *D. Cray*, who says, that *May* was so zealous in the matter, that he said to him, *God Damn him he deserv'd to be Shot through the Head.*

Sparks was on Board the Ship and had a design'd end, and no compulsion was used towards him; but since had liberty to depart; but the staying behind by the rest, is a great Evidence to induce you to believe they were Parties in the Design; for why else should not they go ashore as well as others, since there doth not appear any restraint upon them to stay, especially when a general word was given, that those who would go on Shoar should go on the Deck, and a Boat was ready to carry them off.

They say, they wanted a Bucket in the Boar, and they gave them one to lave out the Water; that is a plain Evidence they were willing to be rid of those that were not willing to Engage with them; and if they had not approved of the Design, they were not hindred from going in the Boat. As for those that came from the *James*, there was no manner of Force on them, but they were sent from the Capt. to assist the Capt. of the *Charles*; for those two Ships having lain near together at the *Groyne*, there was some Intelligence of such a Design in agitation, and these three forsook their own Ship; *Every* declared his Design to some: And he told them what Shares they should have; and because he was their Capt. and Commander, he thought himself intitled to a double share.

And then you have heard what was done in the whole Progress of this wicked Design, Every one of these Men had their share, even this *W. May*, tho he was sick for some time, and was set ashore at *Joanna*, and at the Ships return taken in again, yet he had his share of all the Prizes. *W. Bishop* had his share, *James Lewis* had his share, and *John Sparks* had his share; and, says this young Man *Phillip Middleton*, I had my share, which was above an hundred Pound, which was thought by them to be a good share for a Boy; and *Sparks* took him at a disadvantage, and having an opportunity, took it from him.

Now if there be a Piracy committed tho contrived but by one Man, yet if others do concur in it they are equally Guilty.

Now tho these Prisoners tell you, there was a force upon them, it is a meer suggestion, without any manner of Evidence; But there is Evidence of their consenting and confederating in this wicked Enterprize.

Indeed there hath been a Tryal before, which you have all heard of; for the City and Nation have discoursed of it; consider therefore the Evidence. You have a great Trust reposed in you, for you are not to act Arbitrarily, but you are accountable to God Almighty, to whom you are sworn, and to the Government for the Verdict you give. If you are not satisfied in your Consciences that the Evidence is sufficient to find these Men Guilty, in God's Name, acquit them.

But if you are satisfied in the sufficiency of the Evidence to convict them, you must find them Guilty.

Cl. of Ar. Cryer, swear an Officer to keep the Jury; which was done, and the Jury went out to consider of their Verdict. And in the mean time, the six Prisoners were again arraigned upon two several Indictments, the one for piratically taking away a *Moorish* Ship; and the other for committing Piracy upon two *Danish* Ships. To both which Indictments *Joseph Dawson* pleaded Guilty; the other five pleaded not Guilty, and put themselves upon their Tryals.

Then the Jury having been withdrawn a little while returned into Court.

Foreman. If there be any Evidence to prove that *John Sparks* consented to the running away of the Ship, we desire it may be heard again.

L. C. J. H. He was with them at the carrying off the Ship, and at the taking of the several Prizes, and had his Share afterwards. What is Content? Can Men otherwise Demonstrate their Consent, than by their Actions?

Juryman. But we understand, my Lord, that he was tryed upon his consenting to carry away the Ship.

L. C. J. Holt.

L. C. J. Holt. What do you mean by Consenting? If a Ship be carried away with force from the Captain, diverse Piracies are committed with her, one continues aboard and receives a Share of the Profit of the several Piracies; Is not that an Evidence of Consent to the piratical Design? Was it not proved that many went out of the Ship, that were not willing to go on that Design? And that was with the leave of the rest that remained.

Mr. J. Eyres. And one stood on the Deck, and said with a loud Voice, That they that will not go may have liberty to go ashore.

Mr. Coniers. No Man was hindered but the Doctor, being a useful Man.

L. C. J. Holt. When a Ship is run away with, and People are aboard that Ship so run away with, that proves their Consent, unless they can produce Evidence to the contrary.

Mr. J. Turton. The Captain was in his Bed sick of a Fever at that time, and was not willing to go with them, and they sent him away from them.

Mr. J. Eyres. And every Man had his Share.

Then the Jury consulting together a very little time, agreed on their Verdict.

Cl. of Ar. Gentlemen of the Jury, Answer to your Names, *Jo. Degrave.*

Jo. Degrave. Here (and so of the rest.)

Cl. of Ar. Gentlemen, Are you all agreed of your Verdict?

Jury. Yes.

Cl. of Ar. Who shall say for you?

Jury. Our Foreman.

Cl. of Ar. Set *Ed. Foreseth* to the Bar. *Ed. Foreseth*, hold up thy Hand (which he did.) Look upon the Prisoner; Is *Edward Foreseth* Guilty of the Piracy and Robbery whereof he stands Indicted, or not Guilty?

Foreman. Guilty.

Cl. of Ar. Look to him Keeper. What Goods and Chattels, &c.

Foreman. None that we know of.

Cl. of Ar. *W. May*, hold up thy Hand (which he did.) Is *W. May* Guilty, &c. or not Guilty?

Foreman. Guilty.

Cl. of Ar. Look to him Keeper, &c. *W. Bishop*, hold up thy Hand (which he did.) Is *W. Bishop* Guilty, &c. or not Guilty?

Foreman. Guilty.

Cl. of Ar. Look to him Keeper, &c. *Ja. Lewis*, hold up thy Hand (which he did.) Is *Ja. Lewis* Guilty, &c. or not Guilty?

Foreman. Guilty.

Cl. of Ar. Look to him Keeper, &c. *Jo. Sparks*, hold up thy Hand (which he did.) Is *Jo. Sparks* Guilty, &c. or not Guilty?

Foreman. Guilty.

Cl. of Ar. Look to him Keeper, &c.

L. C. J. Holt. Gentlemen, You have done extremely well, and you have done very much to regain the Honour of the Nation, and the City.

Then the Court Adjourn'd to Friday next the 6th of Novemb. two of the Clock in the Afternoon. On which Day Ed. Foreseth, &c. were Tryed upon two other Indictments for several Piracies.

An Abstract of the Tryal of Ed. Foreseth, James Lewis, Will. May, Will. Bishop, Jo. Sparks, (Joseph Dawson having pleaded Guilty upon his Arraignment) at the Sessions-House in the Old-Baily, Friday Novemb. the 6th 1696. where were present Sir Charles Hedges Judge of the High-Court of Admiralty, the Lord Chief Justice Holt, Lord Chief Justice Treby, with several others of his Majesties Judges and Commissioners.

After several Challenges made by the Prisoners, of the Persons returned upon the Jury, these Twelve Gentlemen were Sworn, viz.

<i>Roger Mott</i>	<i>John Watson</i>
<i>John James</i>	<i>Benjamin Hooper</i>
<i>Richard Rider</i>	<i>John Hibbert</i>
<i>William Hunt</i>	<i>Richard Chiswell</i>
<i>John Hammond</i>	<i>Daniel Ray</i>
<i>Abraham Hickman</i>	<i>William Hatch.</i>

Then the Clerk Read the Two Indictments upon which they were Tryed; viz. One for Seizing, Robbing and Carrying away Two Ships belonging to Denmark, on the 30th of August, 1694. The other for that they, on the 28th of September, 1695. in a Place 40 Leagues distant from Surrat, did Forcibly and Piratically set upon a Moerish Ship, and take away her Tackle and Goods, to a great Value.

Then Dr. Newton, one of his Majesties Advocates, spoke to the Jury, as followeth.

My Lord, and Gentlemen of the Jury,

The Crime the Prisoners at the Bar stand Charged with, and which has been opened to you, upon the Indictments, is Piracy; which is the worst sort of Robbery, both in its Nature and its Effects, since it disturbs the Commerce and Friendship betwixt different Nations; and if left unpunished, involves them in War and Blood: For sovereign Powers and Nations have no Courts of Justice afterwards to resort to, as the Subjects of Princes have, in their own Countries, for Redress or Punishment; but they can only have recourse to Arms and War, which how Expensive, and how Dangerous they are, and what Calamities and Ruin they carry along with them, no Person

Person can be a Stranger to. So that those who bring not such Criminals to Judgment, when they are in their Power, and is their Duty to do so, are answerable, in a great Measure, before God and Man, for all the fatal Consequences of such Acquittals, which bring a Scandal on the publick Justice, and are often attended with publick Calamities.

It is not therefore, Gentlemen, to be supposed, that Wise or Honest Men, (and there are none who would be thought to be otherwise) who love their Country, and wish its Peace and Prosperity, would be guilty in that kind.

Gentlemen, This Piracy was begun in *Europe*, carried on through *Africa*, and ended in the remotest *Indies*; so that, in a manner, all the World is concerned in this Tryal, and expects and demands Justice of them, if they are Guilty, at your Hands.

Then the Witneses were Produced to prove the Facts charged upon the Prisoners, viz. *Jo. Den, David Cray, Phil. Middleton*, and others; who fully proved against them, That the Prisoners, with several other wicked Persons, not yet taken, did forcibly take away the Ship *Charles the Second* from the lawful Commander, Captain *Gibson*, with a piratical Design. And in the said Ship did afterwards commit several Piracies; at the Isle of *May* they took three *English* Ships. From them they went to the Coast of *Guinea*, and when some of the Natives came on board with their Gold, to trade with them, they took away their Gold, and carried them away for Slaves. And then went to the Isle of *Princes* and took two *Danish* Ships, and took out what was in them, viz. 20 Pound weight of Gold-dust, and other Merchandise; and they offered to restore one of the Ships to the Master after they had robbed her, but the Master he said she was insured, and he would not take her again. And afterwards they burnt one of the Ships, and carried away the other. Then they went to *Bobs Key*, at the Mouth of the *Red-Sea*, waiting for the *Moco Fleet*, which one Night past by them unseen; but were informed the next Day that they were gone. And then calling a Council they agreed to follow them; and accordingly went after them, and came up with one of them, which was about 250 Tun, and with small resistance took her, and put some Men on board her, and took out Gold and Silver out of her to the Value of 30 or 40000 *L.* with other Merchandise. And afterwards met with the Ship called the *Gunsway*, and robbed her likewise of all her Furniture, to a very great Value. And about a Week after they shared all the Prizes they had taken; and some had a thousand Pound, some had eight hundred, some seven hundred, some five hundred; every Man in the Ship his Share, as they thought they deserved. And it was particularly proved by the Evidence against the Prisoners that they had their Shares. *The more-particular Relation of which is already Printed at large, in the foregoing Tryal.*

When the King's Evidence had done, the Prisoners were permitted to say what they could in their Defence; but the same appearing to be very weak, the *L. C. J. Holt* summed up the Evidence; and the Jury going out to consider their Verdict, after a short stay, brought them in all Guilty.

Then the Court Adjourned to the 10th of November following.

After the Tryal of John Murphey was over, the Pirates were brought to the Bar.

Cl. of Ar. Joseph Dawson, you by your own Confession are Convicted of Piracy and Robbery. What have you to say why Sentence of Death shall not be passed upon you according to Law.

Joseph Dawson. I submit myself to the King and the honourable Bench.

Cl. of Ar. Edward Foreseth, What have you to say, &c.

Foreseth. I am an innocent Man; and went on to justify himself, &c.

Judge of the Admiralty. You and the rest of the Prisoners at the Bar have had a very fair Tryal, and been fully heard upon your Defence; but the Jury your Country-men, upon whom you put your selves to be tried, have found you Guilty. So that the insisting upon your Justification cannot now avail you any thing, the Verdict being given; but if you have any thing to offer in arrest of Judgment, or can shew any Cause why the Court should not proceed to give Judgment according as the Law directs, against Persons Convicted of Piracy, you shall have liberty to speak, and will be heard.

Foreseth. I desire to be sent into *India* to suffer there.

Cl. of Ar. William May, What have you to say, &c.

William May. My Lord, I being a very sickly Man, never acted in all the Voyage. I have served my King and Countrey this thirty Years, and am very willing to serve the *East-India* Company where they please to command me; and desire the honourable Bench to consider my Case, and if I must suffer, I desire to be sent into *India* to suffer there.

Cl. of Ar. William Bishop, What have you to say, &c.

Will. Bishop. I was forced away; and when I went was but 18 Years old, and am now but 21, and desires Mercy of the King and the Court.

James Lewis. I am an ignorant Person, and leave my self to the King's Mercy.

John Sparks. I leave my self to the King's Mercy, and to the honourable Court.

Ju. of the Ad. Joseph Dawson, You stand Convicted upon four Indictments, by your own Confession, for Piracy and Robbery. And you *Ed. Foreseth, Will. May, Will. Bishop, Ja. Lewis* and *Jo. Sparks*, having put your selves upon your Tryals according to the Customs and Laws of your own Countrey, have been found Guilty upon three several Indictments, for the same detestable Crimes committed upon the Ships and Goods of *Indians*, of *Danes*, and your own Fellow-Subjects.

The Law for the heinousness of your Crime hath appointed a severe Punishment, by an ignominious Death; and Judgment which the Law awards, is this, That you and every one of you be taken from hence to the Place from whence you came, and from thence to the Place of Execution, and that there you, and every one of you be Hanged by the Necks, until you, and every one of you be Dead: And the Lord have Mercy upon you.

According to this Sentence, *Edward Foreseth* and the rest were Executed, on Wednesday, November the 25th 1696. at Execution-Dock, that being the usual Place for the Execution of Pirates.

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